

§ 102.9

13 CFR Ch. I (1-1-03 Edition)

time, SBA will aggregate your requests for records. In no case will SBA give you more than the first two hours of search time, or more than the first 100 pages of duplication without charge.

(o) *Reduction of fees in the public interest.* If SBA determines that disclosure of the information you seek is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and that you are not seeking the information in your own commercial interests, SBA may waive or reduce the fee.

§ 102.9 How may I appeal a denial of my request for information or a fee determination?

(a) You must write to the Chief, FOIA & PA Office at 409 Third Street SW., Suite 5900, Washington, DC 20416.

(b) The Chief must receive your written appeal within 45 calendar days of the date of the SBA determination from which you are appealing.

(c)(1) If you are appealing a denial of your request for information, the appeal must contain the following information:

- (i) What records were denied.
- (ii) The name and title of the individual who denied the request and the address of his or her office.
- (iii) Any other information you deem appropriate.

(2) If you are appealing a fee determination, the appeal must contain the following information:

- (i) The address of the office which made the fee determination from which you are appealing.
- (ii) The fee that office charged.
- (iii) The fee, if any, you believe should have been charged.
- (iv) The reasons you believe that your fee should be lower than the fee which the Agency charged.
- (v) Any other information you deem appropriate.

(d) The Chief will decide your appeal, unless the Chief originally made the determination you are appealing. In that case, SBA's Assistant Administrator for Hearings and Appeals will decide your appeal.

(e) SBA will decide your appeal within 20 working days from the date of its receipt. SBA may have an additional 10

working days if unusual circumstances require.

(f)(1) If you are appealing a decision to deny your request for records, SBA will either:

- (i) Give you the records you requested; or
- (ii) Decline to give you the records you requested, tell you why SBA has concluded that the records were exempt from disclosure under FOIA, and tell you how to obtain judicial review of SBA's decision.

(2) If you are appealing a fee determination, SBA will either charge the fee you request or charge another fee and explain why SBA has concluded that the fee it has decided to charge is appropriate.

§ 102.10 How can I get the Public Index of SBA materials?

(a) The Public Index is a document which provides identifying information about official documents which SBA has issued.

(b) SBA has administratively determined, as permitted by FOIA, that periodic publication and distribution is unnecessary and impracticable.

(c) The Public Index is set forth in Appendix 3 of SBA Standard Operating Procedure 40 03. You can obtain the Public Index from any SBA office.

§ 102.11 What happens if I ask SBA for a record that another Federal agency generated?

Such a request is a request directed to the wrong office, as that term is used in § 102.3(c). SBA will forward your request to the generating agency.

§ 102.12 What happens if I subpoena records or testimony of employees in connection with a civil lawsuit, criminal proceeding or administrative proceeding to which SBA is not a party?

(a) The person to whom the subpoena is directed must consult with SBA counsel in the relevant SBA office, who will seek approval for compliance from the Associate General Counsel for Litigation. Except where the subpoena requires the testimony of an employee of the Inspector General's office, or records within the possession of the Inspector General, the Associate General